

REMARKS

Reconsideration and allowance are respectfully requested in view of the foregoing amendments and the following remarks.

Claims 1-12 and 23-29 are pending, claims 1-12 and 23 having been amended, claims 13-17 and 19-22 having been newly canceled without prejudice or disclaimer, and claims 24-29 having been newly added.

Rejection of Claims 1, 13 and 23 under 35 U.S.C. 101

On page 2 of the Final Office Action of June 21, 2006, the Examiner rejected claims 1, 13 and 23 under 35 U.S.C. 101 as allegedly being directed to non-statutory subject matter. Applicants canceled claim 13, thereby making the rejection moot with respect to this claim. Therefore, Applicants respectfully request that the rejection of claim 13 be withdrawn. Applicants amended claim 1 and corresponding dependent claims, as well as claims 8-11 to be method claims. Applicants submit that the amended claims are statutory and respectfully request that the rejection of claim 1 be withdrawn. Applicants respectfully traverse the rejection with respect to claim 23.

Claim 23 recites instructions for a processor on a machine-readable medium. Applicants wish to direct the Examiner's attention to MPEP 2106 IV.B.1, which states:

Descriptive material can be characterized as either "functional descriptive material" or "non-functional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation of mere arrangement of data.

Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se. *Warmerdam*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the

medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.

Applicants submit that claim 23 includes functional descriptive material recorded on a computer-readable medium which becomes functionally interrelated to the medium. Applicants further submit that the technology permits the function of the descriptive material to be realized when loaded into a memory and executed by a processor. Therefore, Applicants submit that claim 23 is directed to statutory subject matter and respectfully request that the rejection of claim 23 withdrawn.

Rejection of Claim 21 under 35 U.S.C. 112

On page 3 of the Final Office Action of June 21, 2006, the Examiner rejected claim 21 indicating that the limitation "the sending application" in lines 4 and 10 of the claim had insufficient antecedent basis. Applicants canceled claim 21 without prejudice or disclaimer, thereby making this rejection moot. Therefore, Applicants respectfully request that the rejection of claim 21 be withdrawn. Further, Applicants note that line 4 of claim 21 was amended to "a sending application" in the amendment filed on March 15, 2006.

Rejection of Claims 1, 6, 7, 13, 19-21 and 23

On page 3 of the Final Office Action, the Examiner rejected claims 1, 6, 7, 13, 19- 21 and 23 under 35 U.S.C. 102(c) as allegedly being anticipated by U.S. Patent No. 6,651,101 to Gai et al. ("Gai"). Applicants canceled claims 13 and 19-21, thereby making the rejection of these claims moot. Therefore, Applicants respectfully request that the rejection of claims 13 and 19-21 be withdrawn. Applicants respectfully traverse the rejection with respect to the remaining claims. Applicants submit that claims 1, 6, 7 and 23 were amended to more clearly recite the claimed invention and that the amendments to claims 1, 6, 7 and 23 do not narrow the scope of these claims.

Amended independent claim 1 is directed to a method including, among other things, passing data having a first data type by a sending application resident on a first computer system to a first utility program resident on the first computer system and adding to the data, by the first utility program, a token, a first category type identifier corresponding to a first data type, and a first data type identifier corresponding to the first data type, to form an information packet including the token, the first category type identifier, the first data type identifier, and the data.

Gai discloses a method and apparatus for identifying network data traffic flows and for applying quality of service or policy treatments thereto (Gai, at col. 1, lines 23-26). Fig. 2 of Gai discloses an exemplary computer network. Host/server 222 of Gai includes an application program 224, a flow declaration component 226 and a communication facility 228. Flow declaration component 226 includes a message generator 230 in communicating relation with communication facility 228 (Gai, at col. 6, lines 11-15). Flow declaration component 226 is coupled to a memory 232 for storing one or more traffic flow data structures (Gai, at col. 6, lines 15-17). Application program 224 is arranged to communicate with communications facility 228 and through an Application Program Interface (API) layer 236 to flow declaration component 226 (Gai, at col. 6, lines 17-20).

Application program 224 can communicate with an end station 212 across a network 200 via communication facility 228 at host/server 222 (Gai, at col. 7, lines 56-59). Application program 224 may communicate with flow declaration component 226 through a number of API system calls to API layer 236 (Gai, at col. 7, lines 59-62). Generally, application program 224 issues API calls with one or more arguments which may be returned by flow declaration component 226 (Gai, at col. 7, lines 62-64).

For a claim to be anticipated by a reference, the reference must disclose each and every feature of the claim. Gai fails to disclose each and every feature of claim 1.

Gai, at col. 7, line 65 through col. 8, line 14, discloses:

In particular, upon initialization at host/server 222, the application program 224 preferably issues a StartUp() API call 410 to the API layer 236 at flow declaration component 226. Program 226 [sic] preferably loads the StartUp() call 410 with an application identifier that uniquely identifies application program 224 to component 226 as an argument. The application identifier may be a globally unique identifier (GUID), which is a 128 bit long value typically provided by the application developer, although other identifiers may also be used (e.g., application name). The StartUp() call 410 may be returned by the flow declaration component 226 with a version number as an argument. The version number corresponds to the version of software being executed by the flow declaration component 226. Other arguments, such as the quality-of-service (QoS) and/or traffic management resources that are available to traffic flows originating from program 224, may also be returned by flow declaration component 226.

Thus, Gai discloses application program 224 issuing a StartUp API call via API layer 236 (APL) at flow declaration component 226. Application program 224 loads the StartUp API call with an application identifier that uniquely identifies the application program to the flow control component. The StartUp call may return to application program 224 a software version number, as well as other arguments (see Fig. 4A).

Applicants submit that the StartUp API Call is made by the application program to introduce application program 224, identified by its unique application identifier, to flow declaration component 226 and for flow control component 226 to provide to the application program its software version, as well as other parameters, which can be returned to application program 224 as one or more arguments by flow declaration component 226.

Making an API call with an argument such as, for example, an application identifier from application program 224 to flow declaration component 226 via API layer 236, all within host/server 222 (see Gai, Fig. 2) is not equivalent to adding to data (passed by a sending application), by a first utility program, a token, a first category type identifier corresponding to a first data type, and a first data type identifier corresponding to the first data type, to form an information packet including the token, the first category type identifier, the first data type identifier, and the data, as required by claim 1.

Gai, at column 10, lines 10-37, discloses:

For example, application-level parameters include such information as user name (e.g., John Smith), user department (e.g., engineering, accounting, marketing, etc.), application name (e.g., SAP R/3, PeopleSoft, etc.), application module (e.g., SAP R/3 accounting form, SAP R/3 order entry form, etc.), transaction type (e.g., print), sub-transaction type (e.g., print on HP Laser Jet Printer), transaction name (e.g., print monthly sales report), sub-transaction name (e.g., print monthly sales report on A4 paper), application state (e.g., normal mode, critical mode, primary mode, back-up mode, etc.). For a video streaming application, the application-level parameters might include user name, film name, film compression method, film priority, optimal bandwidth, etc. Similarly, for a voice over IP application, the application-level parameters may include calling party, called party, compression method, service level of calling party (e.g., gold, silver, bronze), etc. In addition, for World Wide Web (WWW) server-type applications, the application-level parameters may include Uniform Resource Locator (URL) (e.g., <http://www.altavista.com/cgi-in/query?pg=aq&kl=en&r=&search=Search&q=Speech+near+recognition>), front-end URL (e.g., <http://Hwww.altavista.com>), back-end URL (e.g., [query?pg=aq&kl=en&r=&search=Search&q=Speech+near+recognition](http://Hwww.altavista.com/cgi-in/query?pg=aq&kl=en&r=&search=Search&q=Speech+near+recognition)), mime type (e.g., text file, image file, language, etc.), file size, etc. Those skilled in the art will recognize that many other application-level parameters may be defined.

Thus, Gai discloses that data information regarding user name, user department, a subtransaction such as a print job on a HP laser jet printer are application-level parameters. However, neither the above-cited portions of Gai, nor any other portions of Gai, disclose or suggest passing data having a first data type by a sending application resident on a first computer system to a first utility program resident on the first computer system and adding to the data, by the first utility program, a token, a first category type corresponding to a first data type, and a first data type identifier corresponding to the first data type, to form an information packet including the token, the first category type information, the first data type identifier, and the data, as required by amended claim 1.

For at least the reasons discussed above, Applicants submit that Gai fails to disclose or suggest each and every feature of amended claim 1 and claims 6 and 7, which depend from claim 1 either directly or as a base claim. Therefore, Applicants respectfully request that the rejection of claims 1, 6 and 7 be withdrawn.

Claim 23 is directed to a machine-readable medium comprising instructions for a processor, such that when the instructions are loaded into a memory and

executed by the processor, the processor performs a method. Applicants submit that claim 23 has features similar to those of claim 1. For at least reasons similar to those discussed above, with respect to claim 1, Applicants submit that Gai does not anticipate claim 23 and respectfully request that the rejection of claim 23 be withdrawn.

Rejection of Claims 2-5, 8-12, 14-18 and 22

On page 5 of the Final Office Action, the Examiner rejected claims 2-5, 8-12, 14-18 and 22 under 35 U.S.C. 103(a) as allegedly being unpatentable over Gai and further in view of U.S. Patent No. 6,654,786 to Fox et al. ("Fox"). Applicants note that claim 18 was canceled in a previous amendment. Therefore, the rejection of claim 18 is moot and should be withdrawn. Claims 14-17 were canceled without prejudice or disclaimer, thereby making the rejection of these claims moot. Therefore, Applicants respectfully request that the rejection of claims 14-17 be withdrawn. Claims 2-5 and 8-12 were amended to be method claims, however, Applicants submit that the amendments do not narrow the scope of these claims. Applicants respectfully traverse the rejection with respect to claims 2-5 and 8-12.

Claims 2-5 and 8-12 depend from claim 1, either directly or as a base claim, and are not anticipated by Gai for at least the reasons discussed above, with respect to claim 1. Applicants submit that Fox fails to satisfy the deficiencies of Gai. Therefore, Applicants submit that neither Gai nor Fox, disclose or suggest, either separately or in combination, all of the features of claim 1, from which claims 2-5 and 8-12 depend. Applicants, therefore, respectfully request that the rejection of claims 2-5 and 8-12 be withdrawn.

CONCLUSION

Having addressed all rejections, Applicants respectfully submit that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,

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